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<b>FEE TRANSMITTAL</b> <b>For FY 2005</b>		<b>Complete if Known</b>	
		Application Number	09/986,378-Conf. #5140
		Filing Date	November 8, 2001
		First Named Inventor	Ola SANDSTROM
		Examiner Name	R. F. Pitaro
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Art Unit	2174
<b>TOTAL AMOUNT OF PAYMENT</b>		<b>(\$)</b>	500.00
		Attorney Docket No.	3782-0193P

**METHOD OF PAYMENT** (check all that apply)

☒ Check   ☐ Credit Card   ☐ Money Order   ☐ None   ☐ Other (please identify): \_\_\_\_\_

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**FEE CALCULATION**

**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	Fee (\$)	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
		Small Entity	Fee (\$)	Small Entity	Fee (\$)	Small Entity	Fee (\$)	
Utility	300	150	500	250	200	100		
Design	200	100	100	50	130	65		
Plant	200	100	300	150	160	80		
Reissue	300	150	500	250	600	300		
Provisional	200	100	0	0	0	0		

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

**Total Claims**   **Extra Claims**   **Fee (\$)**   **Fee Paid (\$)**

\_\_\_\_\_ - 20 = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

**Indep. Claims**   **Extra Claims**   **Fee (\$)**   **Fee Paid (\$)**

\_\_\_\_\_ - 3 = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____ / 50 (round up to a whole number) x _____	_____	_____

**4. OTHER FEE(S)**

	Fees Paid (\$)
Non-English Specification, \$130 fee (no small entity discount)	
Other (e.g., late filing surcharge) 1402 Filing a brief in support of an appeal	500.00

<b>SUBMITTED BY</b>			
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		Date	August 10, 2005



**MS APPEAL BRIEF - PATENTS**

Docket No.: 3782-0193P

(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Ola SANDSTROM et al.

Application No.: 09/986,378

Confirmation No.: 5140

Filed: November 8, 2001

Art Unit: 2174

For: DEVICE AND SYSTEM FOR INFORMATION  
MANAGEMENT

Examiner: R. F. Pitaro

**APPEAL BRIEF TRANSMITTAL FORM**

MS Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an Appeal Brief on behalf of the Appellants in connection with the above-identified application.

☐ The enclosed document is being transmitted via the Certificate of Mailing provisions of 37 C.F.R. § 1.8.

A Notice of Appeal was filed on June 13, 2005.

☐ Applicant claims small entity status in accordance with 37 C.F.R. § 1.27.

The fee has been calculated as shown below:

Application No.: 09/986,378

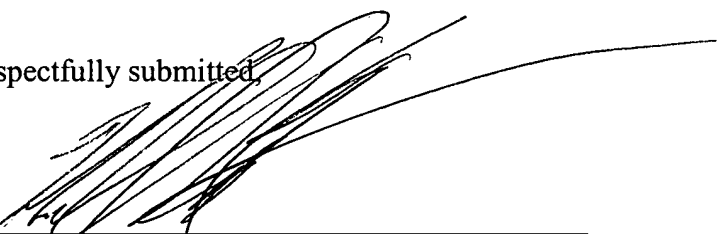
Docket No.: 3782-0193P

- ☐ Extension of time fee pursuant to 37 C.F.R. §§ 1.17 and 1.136(a).
- ☒ Fee for filing an Appeal Brief - \$500.00 (large entity).
- ☒ Check(s) in the amount of \$500.00 is(are) attached.
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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: August 10, 2005

Respectfully submitted,

  
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Attachment(s)



Docket No.: 3782-0193P  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Ola SANDSTROM et al.

Application No.: 09/986,378

Confirmation No.: 005140

Filed: November 8, 2001

Art Unit: 2174

For: DEVICE AND SYSTEM FOR INFORMATION  
MANAGEMENT

Examiner: R. F. Pitaro

**APPEAL BRIEF**

MS Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

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Application No.: 09/986,378

Docket No.: 3782-0193P

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Ola SANDSTROM et al.

Application No.: 09/986,378

Confirmation No.: 005140

Filed: November 8, 2001

Art Unit: 2174

For: DEVICE AND SYSTEM FOR INFORMATION  
MANAGEMENT

Examiner: R. F. Pitaro

**APPEAL BRIEF ON BEHALF OF APPELLANTS: Ola Sandstrom et al.**

MS Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This appeal is from the decision of the Examiner dated January 13, 2005, finally rejecting claims 1-25, which are reproduced as an Appendix to this Brief.

The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, and 1.21 that may be required by this paper and to credit any overpayment to Deposit Account No. 02-2448.

08/11/2005 SZEWDIE1 00000022 09986378

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**I. REAL PARTY IN INTEREST**

The real party in interest for this application is the Assignee, Anoto IP Lic HB, Scheelevägen 19C, 223 70 Lund, Sweden.

**II. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

**III. STATUS OF CLAIMS**

Claims 1-25 are currently pending in this application. Claims 1-25 are rejected and the subject of the present appeal. Claims 1, 12, 18, 22, and 25 are independent.

**IV. STATUS OF AMENDMENTS**

No amendments have been presented after the Final Rejection of January 13, 2005.

**V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

The claimed invention is a filing appliance comprising means for holding a plurality of sheets (specification, page 9, lines 17-21) wherein at least one input field is provided with a position-coding pattern and (page 10, lines 6-9) and is adapted to be filled in by a drawing device which records, using the position-coding pattern, positions in the input field in order to digitally record information entered in the input field (page 10, lines 10-27), and an initiation icon is provided wherein a detection of the initiation icon by the drawing device is adapted to initiate an operation in a computer system communicating with the drawing device, in which operation an information object is created, which is identifiable at least by means of information entered in the input field (page 11, lines 4-19). The input field is adapted to be filled in with text or an illustration (page 10, lines 10-12).

The claimed invention further provides wherein sheets in at least a subset of the plurality of sheets are provided with a position-coding pattern so that the information filled in on a sheet in the subset by the drawing device is recordable as a digital graphical input, the filing appliance comprising a number of appearance icons, a marking of an appearance icon by means of the drawing device being adapted to give the digital graphical input a visual property (page 19, lines 6-15). The visual property may relate to stroke weight (page 19, lines 16-18) and line color (page 20, lines 2-3). The filing appliance further comprises an address field provided with a position-coding pattern, and an order icon, a marking of the order icon by the drawing device being adapted to initiate an operation in the computer system which operation performs an order of another filing appliance to be delivered to the address entered in the address field (page 20, lines 9-20).

The filing appliance further provides wherein at least two sheets in a subset of the plurality of sheets are provided with a position-coding pattern, so that information filled in on a sheet in the subset can be recorded by the drawing device as digital graphical inputs, and a send icon provided with a position-coding pattern, a marking of the send icon by means of the

drawing device initiating an operation in the computer system, in which operation graphical inputs entered on the sheet are transferred to the computer system and optionally on to an external computer system (page 15, lines 20-26). The information object may comprise a table or a file (page 11, lines 15-17). The filing appliance may further comprise an archiving icon, detection of the archiving icon by the drawing device being adapted to initiate an operation wherein position information corresponding to strokes of the drawing device, which strokes are generated after a reference time point, is transmitted from the drawing device to the computer system (page 20, lines 20-26). The reference time point may be set to the current time in connection with the transmission of the position information (page 21, lines 1-2). The reference time point may be stored in the drawing device (page 21, lines 1-2) or stored in the computer system (page 21, lines 12-13).

The claimed invention further includes a system for information comprising a filing appliance, a drawing device and a computer system (Fig. 3).

The claimed invention is further directed to a method for processing information comprising receiving buffered information from a drawing device, the position information being generated when the drawing device is moved over a position-coding pattern, the position information including information that is generated before and after a time point  $t_{act}$ ; inserting position information generated before said time point  $t_{act}$  in a first information object wherein the first information object is related to a first filing appliance; and inserting position information generated after said time point  $t_{act}$  in a second information object, wherein the second information object is related to a second filing appliance (page 22, lines 1-27).

The claimed invention is a filing appliance comprising a holder for holding a plurality of tangible sheets (specification, page 9, lines 17-21) including at least one input field which is provided with a position-coding pattern (page 10, lines 6-9) and is adapted to be filled in by a drawing device which records, using the position-coding pattern, positions in the input field to digitally record information entered in the input field (page 10, lines 10-27), wherein the filing device further includes an initiation icon, wherein the drawing device is adapted to detect the

initiation icon and, upon detection of the initiation icon, initiate an operation in a computer system communicating with the drawing device, in which operation an information object is created, which is identifiable at least by means of information entered in the input field (page 11, lines 4-19).

The claimed invention is further directed to a drawing device comprising a sensor for sensing position information from a position-coding pattern on a surface (Fig. 3; reference 12b), and a memory for storing sensed positional information (Fig. 3, reference 12d) including information that is generated before and after time point  $t_{act}$ , wherein position information sensed before time point  $t_{act}$  is to be inserted in a first information object wherein the first information object is related to a first filing appliance, and wherein position information generated after time point  $t_{act}$  is to be inserted in a second information object, wherein the second information object is related to a second filing appliance (page 22, lines 1-27).

The summary to the claimed invention herein is being made to comply with the Patent Office rules in submitting Briefs and is not to be considered as limiting the claimed invention.

## VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The Final Office Action provides eight (8) grounds of rejection for review on appeal.

- 1) Claims 1-3, 8, 10, 12-13, and 21-23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Sklarew* (USP 4,972,496) (hereinafter “*Sklarew*”);
- 2) Claims 4-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sklarew* in view of *Gough et al.* (USP 5,603,053) (hereinafter “*Gough*”);

- 3) Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sklarew* and *Gough* and further in view of *Microsoft Power Point* (hereinafter “*Power Point*”); and
- 4) Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sklarew* in view of *Borgström et al.* (USP 6,738,053) (hereinafter “*Borgström*”); and
- 5) Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sklarew* in view of *Wildermuth* (USP 5,950,188) (hereinafter “*Wildermuth*”); and
- 6) Claims 11, 14-15, 17 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sklarew* in view of *Lamming* (USP 5,535,063) (hereinafter “*Lamming*”); and
- 7) Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sklarew* and *Lamming* and further in view of *Morishita et al.* (USP 6,335,727) (hereinafter “*Morishita*”); and
- 8) Claims 18-20 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sklarew* and *Eichstaedt et al.* (USP 6,563,494) (hereinafter “*Eichstaedt*”).

## VII. ARGUMENTS

### A. The Examiner's Rejection Fails to Establish *Prima facie* Anticipation of Claims 1-3, 8, 10, 12-13 and 21-23

#### 1. Argument Summary

The reasoning provided in support of the rejection of claims 1-3, 8, 10, 12-13 and 21-23 under 35 U.S.C. §102(b) as being anticipated by *SklaREW* fails to establish *prima facie* anticipation. Generally, the deficiencies of the rejection are that the rejection attributes certain claimed features to *SklaREW* that a detailed reading of the reference reveals are not taught therein. These deficiencies exist for the rejection of each of claims 1-3, 8, 10, 12-13 and 21-23.

#### 2. Legal Requirements of *Prima facie* Anticipation

In order to properly anticipate Appellant's claimed invention under 35 U.S.C. § 102(b), each and every element of the claim in issue must be found, either expressly described or under the principles of inherency, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claims." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913 (Fed. Cir. 1989). Finally, the elements must be arranged as required by the claims, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

#### 3. The Rejection Fails to Establish *Prima facie* Anticipation of Independent Claim 1

Independent claim is directed to a filing appliance comprising means for holding a plurality of sheets, wherein at least one input field is provided with a position-coding pattern and is adapted to be filled in by means of a drawing device which records, using the position-coding pattern, positions in the input field in order to digitally record information entered in the input

field, and an initiation icon is provided wherein a detection of the initiation icon by the drawing device is adapted to initiate an operation in a computer system communicating with the drawing device, in which operation an information object is created, which is identifiable at least by means of information entered in the input field.

In maintaining his rejection of independent claim 1, the Examiner asserts in the Final Official Action mailed January 13, 2005, page 2, paragraph 5, that *Sklarew* teaches as follows:

As per claim 1, *Sklarew* teaches a filing appliance comprising means for holding a plurality of sheets (col. 3, lines 37-40) wherein at least one input field (Fig. 12c) is provided with a position-coding pattern (col. 5, lines 61-64) and is adapted to be filled in by a drawing device (col. 5, lines 57-60) which records, using said position-coding pattern, positions in the input field in order to digitally (col. 7, line 38) record information entered in the input field (col. 5, lines 61-67), and an initiation icon is provided (Fig. 10, SAVE; Fig. 12F, INSERT), wherein a detection of the initiation icon by the drawing device is adapted to initiate an operation in a computer system communicating with the drawing device, in which operation an information object is created (col. 11, lines 41-43; col. 12, lines 55-57), which is identifiable at least by means of information entered in the input field.

Appellants disagree that *Sklarew* discloses a filing appliance comprising a means for holding a plurality of sheets. Appellants further disagree that *Sklarew* discloses wherein at least one input field is provided with a position-coding pattern which is adapted to be filled in by a drawing device. Appellants further maintain that *Sklarew* fails to teach or suggest a drawing device which records, using the position-coding pattern positions in the input field in order to digitally record information entered in the input field. Finally, Appellants further maintain the *Sklarew* fails to teach or suggest an initiation icon provided, wherein detection of the initiation icon by the drawing device is adapted to initiate an operation in a computer system communicating with the drawing device.

**a. The Cited Reference Fails to Teach or Suggest “a filing appliance comprising a means for holding a plurality of sheets”**

In support of the Examiner’s rejection of claim 1, the Examiner asserts that *Sklarew* teaches a filing appliance comprising means for holding a plurality of sheets citing to col. 3, lines 37-40. Appellants respectfully disagree with the Examiner’s characterization of this reference.

The disclosure of *Sklarew* is directed to a handwritten keyboardless entry computer system. The computer system includes a transparent input screen that generates positional information when contacted by a stylus and a display screen mounted physically below the input screen such that a character that is displayed can be seen below the input screen. The system includes a computer that has been programmed to compile the positional information into strokes, to calculate the stroke characteristics, and then compare the stroke characteristics with those stored in a database in order to recognize the symbol drawn by the stylus (Abstract).

At col. 3, lines 37-40, *Sklarew* discloses that a multiplicity of blank, fully or partly completed forms may be stored in the portable computer memory. However, Appellants maintain that these teachings are insufficient to anticipate the claim elements. There is no teaching or suggestion in *Sklarew* that is directed to a filing appliance comprising means for holding a plurality of sheets, as set forth in claim 1. As *Sklarew* fails to teach or suggest all of the claim elements, it is respectfully submitted that the Examiner has failed to establish *prima facie* anticipation. As such, Appellants maintain that claim 1 is not anticipated by *Sklarew*.

**b. The Cited Reference Fails to Teach or Suggest “wherein at least one input field is provided with a position-coding pattern which is adapted to be filled in by a drawing device”**

In support of the Examiner’s rejection of claim 1, the Examiner asserts that *Sklarew* discloses wherein at least one input field (12c) is provided with a position-coding pattern citing to col. 5, lines 61-64. Appellants respectfully disagree with the Examiner’s assertions.



In addition to the teachings of *Sklarew* noted above, the reference further discloses input screen 18 may be a conventional resistive type touch screen in which a voltage is applied to the screen edges and a stylus detects the voltage at the touched location (col. 6, lines 41-44). At col. 5, lines 61-64, *Sklarew* discloses “as the stylus ‘writes’ on input screen 18, a plurality of locating signals representative of a plurality of corresponding positional coordinates are transmitted to microcomputer 14’.

In contrast, claim 1 clearly recites, *inter alia*, wherein at least one input field is provided with a position-coding pattern which is adapted to be filled in by a drawing device. There is no teaching or suggestion in *Sklarew* that is directed to a position-coding pattern, as claimed. *Sklarew* clearly discloses that the computer determines position based upon applied voltages that are detected by a stylus. Further, there is no teaching or suggestion in *Sklarew* that is directed to wherein at least one input field is provided with a position-coding pattern which is adapted to be filled in by a drawing device, as set forth in claim 1. As *Sklarew* fails to teach or suggest all of the claim elements, it is respectfully submitted that the Examiner has failed to establish *prima facie* anticipation. As such, Appellants maintain that claim 1 is not anticipated by *Sklarew*.

**c. The Cited Reference Fails to Teach or Suggest “a drawing device which records, using the position-coding pattern positions in the input fields in order to digitally record information entered in the input field”**

In support of the Examiner’s rejection of claim 1, the Examiner asserts that *Sklarew* discloses a drawing device which records, using the position-coding pattern positions in the input fields in order to digitally record information entered in the input field, citing to col. 7, line 38 and col. 5, lines 61-67. Appellants respectfully disagree with the Examiner’s assertions.

In addition to the teachings of *Sklarew* noted above, the reference further discloses “Stylus 16 (FIG. 2) is connected to the computer of system 10 with wire 17 (FIG. 2). As stylus 16 “writes” on input screen 18, a plurality of locating signals representative of a plurality of corresponding positional coordinates are transmitted to microcomputer 14. Microcomputer 14

has been programmed in accordance with a computer program described hereinbelow, to recognize the stream of locating signals and to store these signals in a computer memory.” (col. 5, lines 59-67). Further, *Sklarew* discloses, “Different sets of Font Symbols could be created and stored in the permanent memory of the computer, as in ROM chip 54.” (col.11, lines 41-43) and “The software then matches the handwritten input to the corresponding Font Symbols and displays the result (FIG. 12E). If there is an accurate match, the "insert" block is touched (FIG. 12F), and the new observation is added to the patient's records (FIG. 12G).” (col. 12, lines 54-57).

In contrast, claim 1 clearly recites, *inter alia*, a drawing device which records, using the position-coding pattern positions in the input fields in order to digitally record information entered in the input field. *Sklarew* clearly discloses that the stylus merely detects voltage at a touched location and transmits the voltage information to the computer for processing. There is no teaching or suggestion in *Sklarew* that is directed to a drawing device which records, using the position-coding pattern positions in the input fields in order to digitally record information entered in the input field, as claimed. As *Sklarew* fails to teach or suggest all of the claim elements, it is respectfully submitted that the Examiner has failed to establish *prima facie* anticipation. As such, Appellants maintain that claim 1 is not anticipated by *Sklarew*.

#### **4. The Rejection Fails to Establish *Prima facie* Anticipation of Dependent Claims 2-3, 10, and 13**

Claims 2-3, 10, and 13 depend either directly or indirectly from claim 1. Appellants submit that claims 2-3, 10, and 13 are allowable for the reasons set forth above with regard to claim 1 at least upon their dependency on claim 1. Appellants further submit that dependent claims 2-3, 10, and 13 are separately patentable and offer the following additional argument for the invention of claims 2-3, 10, and 13.

The rejection of claims 2-3, 10, and 13 asserts that *Sklarew* teaches the incremental feature as cited therein. Appellant respectfully submits, however, that the rejection's reliance on *Sklarew* as allegedly teaching these claim features fails to make up for the deficiencies of the rejection as applied to claims 2-3, 10, and 13 and, further, as applied to claim 1. Thus, the Examiner's rejection fails to establish *prima facie* anticipation of claims 2-3, 10, and 13. Appellants maintain that claims 2-3, 10, and 13 are allowable over the art as cited.

**5. The Rejection Fails to Establish *Prima facie* Anticipation of Dependent Claim 8**

Claim 8 depends directly from claim 1. Appellants submit that claim 8 is allowable for the reasons set forth above with regard to claim 1 at least upon its dependency on claim 1. Appellants further submit that dependent claim 8 is separately patentable and offers the following additional argument for the invention of claim 8.

The invention of claim 8 provides wherein at least two sheets in a subset of said plurality of sheets are provided with a position-coding pattern, so that information filled in on a sheet in the subset can be recorded by said drawing device as digital graphical inputs, and a send icon provided with a position-coding pattern, a marking of the send icon by means of the drawing device initiating an operation in the computer system, in which operation graphical inputs entered on the sheet are transferred to the computer system and optionally on to an external computer system.

In maintaining his rejection of claim 8, the Examiner asserts in the Final Official Action mailed January 13, 2005, on page 3, as follows:

As per claim 8, *Sklarew* teaches wherein at least two sheets in a subset of said plurality of sheets are provided with a position-coding pattern, so that information filled in on a sheet in the subset can be recorded by said drawing device (col. 5, lines 61-64) as a digital graphical input (col. 7, lines 37-38), and a send icon provided with a position-coding pattern (Fig. 12, *INSERT*), a marking of the send icon by means of the drawing device initiating an operation in the computer system (col.12, lines 55-57), in which operation graphical inputs entered on the sheet are transferred to the computer system

(col. 3, lines 42-45) and optionally on to an external computer system (col. 10, lines 53-57).

Appellants disagree that *Sklarew* discloses the plurality of sheets having a positional coding pattern so that information filled in on a sheet in the subset can be recorded by said drawing device and a send icon provided with a position-coding pattern, a marking of the send icon by means of the drawing device initiating an operation in the computer system, in which operation graphical inputs entered on the sheet are transferred to the computer system.

*Sklarew* clearly discloses a computer having forms stored in memory. Using the computer device and the stylus, *Sklarew* discloses that a user may input information for storage in the computer. In contrast, the present invention set forth in claim 8 recites, *inter alia*, wherein at least two sheets in a subset of said plurality of sheets are provided with a position-coding pattern. There is no teaching or suggestion in *Sklarew* that is directed to at least two sheets having a position-coding pattern. As *Sklarew* fails to teach or suggest all of the claim elements, it is respectfully submitted that the Examiner has failed to establish *prima facie* anticipation. As such, Appellants maintain that claim 8 is not anticipated by *Sklarew*.

Further, claim 8 clearly recites, *inter alia*, a send icon provided with a position-coding pattern, a marking of the send icon by means of the drawing device initiating an operation in the computer system, in which operation graphical inputs entered on the sheet are transferred to the computer system.

As noted above, *Sklarew* discloses the stylus receiving voltage information and transmitting the voltage information to the computer to determine positional information. However, there is no teaching or suggestion in *Sklarew* that is directed to a send icon provided with a position-coding pattern. Further, there is no teaching or suggestion in *Sklarew* that is directed a marking of the send icon by means of the drawing device initiating an operation in the computer system as claimed. As *Sklarew* fails to teach or suggest all of the claim elements, it is respectfully submitted that the Examiner has failed to establish *prima facie* anticipation. As such, Appellants maintain that claim 8 is not anticipated by *Sklarew*.

**6. The Rejection Fails to Establish *Prima facie* Anticipation of Dependent Claim 21**

Claim 21 depends directly from claim 1. Appellants submit that claim 21 is allowable for the reasons set forth above with regard to claim 1 at least upon its dependency on claim 1. Appellants further submit that dependent claim 21 is separately patentable and offers the following additional argument for the invention of claim 21.

The invention of claim 21 is directed to a filing appliance wherein the initiation icon is provided with a position-coding pattern.

In support of the Examiner's rejection of claim 21, the Examiner asserts in the Final Official Action mailed January 13, 2005, on page 4 as follows:

As per claim 21, *Sklarew* teaches the filing appliance of claim 1, wherein the initiation icon is provided with a position-coding pattern (Fig. 10, *SAVE*; Fig. 12F, *INSERT*).

Appellants disagree that *Sklarew* discloses wherein the initiation icon is provided with a position-coding pattern. As noted above, *Sklarew* discloses that the computer determines positional information by analyzing voltage information received by the stylus and transmitted to computer. There is no teaching or suggestion in *Sklarew* that is directed to a position-coding pattern. Further, there is no teaching or suggestion in *Sklarew* that is directed to an initiation icon that is provided with a position-coding pattern. As *Sklarew* fails to teach or suggest all of the claim elements, it is respectfully submitted that the Examiner has failed to establish *prima facie* anticipation. As such, Appellants maintain that claim 8 is not anticipated by *Sklarew*.

**7. The Rejection Fails to Establish *Prima facie* Anticipation of Independent Claim 12**

Independent claim 12 is directed to a system for information management. The system for information management includes a filing appliance, a drawing device and a computer system, the filing appliance including means for holding a plurality of sheets; at least one input

field which is provided with a position-coding pattern and adapted to be filled in by the drawing device which is adapted to record, using said position-coding pattern, positions in the input field in order to digitally record information entered in the input field; and an initiation icon wherein a detection of the initiation icon by the drawing device initiates an operation in said computer system, which is adapted to communicate with the drawing device, where an information object is created, which is identifiable at least by said information entered in the input field.

In maintaining his rejection of claim 12, the Examiner asserts in the Final Official Action mailed January 13, 2005, on page 4 as follows:

Independent claims 12 and 22 are individually similar in scope to independent claim 1, and are therefore rejected under similar rationale.

Appellant disagrees that *Sklarew* discloses a filing appliance, a drawing device and a computer system wherein the filing appliance comprises means for holding a plurality of sheets, at least one input field which is provided with a position-coding pattern and adapted to be filled in by the drawing device which is adapted to record, using said position-coding pattern, positions in the input field as claimed.

Presumably, the Examiner is relying on the computer system to teach both the filing appliance and the computer system as claimed. However, the claim clearly recites that the system for information management includes a filing appliance, a drawing device, and a computer system. As noted above, *Sklarew* merely discloses a computer. There is no teaching or suggestion of a filing appliance for holding a plurality of sheets. Further, there is no teaching or suggestion of a drawing device that fills in the input field having a position-coding pattern, nor is there any teaching or suggestion in *Sklarew* that is directed to a drawing device that is adapted to record, using the position-coding pattern, positions of the input field as claimed.

As *Sklarew* fails to teach or suggest all of the claim elements, it is respectfully submitted that the Examiner has failed to establish *prima facie* anticipation. As such, Appellants maintain that claim 12 is not anticipated by *Sklarew*.

**8. The Rejection Fails to Establish *Prima facie* Anticipation of Independent Claim 22**

Independent claim 22 is directed to a filing device. The filing device includes a holder for holding a plurality of tangible sheets, including at least one input field which is provided with a position-coding pattern and is adapted to be filled in by a drawing device which records, using the position-coding pattern, positions in the input field to digitally record information entered in the input field, wherein the filing device further includes an initiation icon, wherein the drawing device is adapted to detect the initiation icon and, upon detection of the initiation icon, initiate an operation in a computer system communicating with the drawing device, in which operation an information object is created, which is identifiable at least by the information entered in the input field.

In maintaining his rejection of claim 22, the Examiner asserts in the Final Official Action mailed January 13, 2005, on page 4 as follows:

Independent claims 12 and 22 are individually similar in scope to independent claim 1, and are therefore rejected under similar rationale.

Claim 22 includes elements similar to those above as set forth with regard to claim 1 and assert the deficiencies of the Examiner's rejection as it applies to those elements. Further, Appellants disagree that *Sklaew* discloses a holder for holding a plurality of tangible sheets.

As noted above, *Sklaew* discloses a computer that stores forms in memory. However, there is no teaching or suggestion in *Sklaew* that is directed to a filing device that includes a holder for holding a plurality of tangible sheets. Further, there is no teaching or suggestion in *Sklaew* that is directed to a holder for holding a plurality of tangible sheets, including at least one input field which is provided with a position-coding pattern.

Further, based upon the Examiner's statements in support of his rejection, it appears that the Examiner is interpreting the computer and the filing device to be the same. In other words, it appears that the Examiner is using the teachings of the computer in *Sklaew* to teach both the

filing device and the computer. However, the claim clearly recites that the filing device includes **a holder for holding a plurality of tangible sheets**, including at least one input field which is provided with a position-coding pattern and is adapted to be filled in by **a drawing device** which records, using the position-coding pattern, positions in the input field to digitally record information entered in the input field, wherein the filing device further includes an initiation icon, wherein the drawing device is adapted to detect the initiation icon and, upon detection of the initiation icon, **initiate an operation in a computer system** communicating with the drawing device, in which operation an information object is created, which is identifiable at least by the information entered in the input field. The Examiner's reliance on solely the computer of *Sklarew* is insufficient to anticipate the holder, the drawing device and the computer system of the present invention.

As *Sklarew* fails to teach or suggest all of the claim elements, it is respectfully submitted that the Examiner has failed to establish *prima facie* anticipation. As such, Appellants maintain that claim 22 is not anticipated by *Sklarew*.

**9. The Rejection Fails to Establish *Prima facie* Anticipation of Dependent Claim 23**

Claim 23 depends directly from claim 22. Appellants submit that claim 23 is allowable for the reasons set forth above with regard to claim 22 at least upon its dependency on claim 22. Appellants further submit that dependent claim 23 is separately patentable and offers the following additional argument for the invention of claim 23.

The invention of claim 23 is directed to a filing device wherein the information object electronically represents the filing device.

In support of the Examiner's rejection of claim 23, the Examiner asserts in the Final Official Action mailed January 13, 2005, on page 4 as follows:



As per claim 23, *Sklarew* teaches the filing device wherein the information object electronically represents the filing device (col. 10, lines 23-25; col. 12, lines 55-57).

Appellants disagree that *Sklarew* discloses wherein the information object electronically represents the filing device. *Sklarew* discloses that the device is adapted for use as an interactive screen editor or word processor. After a writer retrieves a document by touching the displayed name of an existing file with the stylus or by writing the name of the file on the screen, all usual editing functions can be performed with stylus entry (col. 10, lines 20-26). *Sklarew* further discloses that if there as an accurate match, the “insert” block is touched (Fig. 12F), and the new observation is added to the patient’s records (Fig. 12G).

As the Examiner appears to rely on the computer of *Sklarew* to teach both the holder and computer, Appellants maintain that these teachings are insufficient to anticipate the claimed invention which recites wherein the information object electronically represents the filing device. As *Sklarew* fails to teach or suggest all of the claim elements, it is respectfully submitted that the Examiner has failed to establish *prima facie* anticipation. As such, Appellants maintain that claim 23 is not anticipated by *Sklarew*.

**B. The Examiner’s Rejection Fails to Establish *Prima facie* Obviousness of Claims 4-5**

**1. Argument Summary**

The reasoning provided in support of the rejection of claims 4-5 under 35 U.S.C. §103(a) as being obvious by *Sklarew* in view of *Gough* fails to establish *prima facie* obviousness. Generally, the deficiencies of the rejection are that the rejection attributes certain claimed features to *Sklarew* and *Gough* that a detailed reading of the references reveals are not taught therein. These deficiencies exist for the rejection of each of claims 4-5.

## 2. Legal Requirements of *Prima facie* Obviousness

To establish *prima facie* obviousness, all claim limitations must be taught or suggested by the prior art and the asserted modification or combination of the prior art must be supported by some teaching, suggestion, or motivation in the applied references or in knowledge generally available to one skilled in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The prior art must suggest the desirability of the modification in order to establish a *prima facie* case of obviousness. *In re Brouwer*, 77 F.3d 422, 425, 37 USPQ2d 1663, 1666 (Fed. Cir. 1995). It can also be said that the prior art must collectively suggest or point to the claimed invention to support a finding of obviousness. *In re Hedges*, 783 F.2d 1038, 1041, 228 USPQ 685, 687 (Fed. Cir. 1986); *In re Ehrreich*, 590 F.2d 902, 908-909, 200 USPQ 504, 510 (C.C.P.A. 1979).

The teaching or suggestion to make the asserted combination or modification of the primary reference must be found in the prior art and cannot be gleaned from applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In other words, the use of hindsight to reconstruct the claimed invention is impermissible. *Uniroyal Inc. v. Rudlan-Wiley Corp.*, 5 USPQ 1434 (Fed. Cir. 1983).

Finally, when considering the differences between the primary reference and the claimed invention, the question for assessing obviousness is not whether the differences themselves would be been obvious, but instead whether the claimed invention as a whole would have been obvious. *Stratoflex Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983).

## 3. The Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claims 4-5

Claims 4-5 depend either directly or indirectly from claim 1. Appellants submit that claims 4-5 are allowable for the reasons set forth above with regard to claim 1 at least upon their dependency on claim 1. Appellants further submit that dependent claims 4-5 are separately patentable and offer the following additional argument for the invention of claims 4-5.

The rejection of claims 4-5 asserts that *Gough* teaches the incremental feature as cited therein. Appellant respectfully submits, however, that the rejection's reliance on *Gough* as allegedly teaching these claim features fails to make up for the deficiencies of the rejection as applied to claims 4-5 and, further, as applied to claim 1. Thus, the Examiner's rejection fails to establish *prima facie* obviousness of claims 4-5. Appellants maintain that claims 4-5 are allowable over the art as cited.

**C. The Examiner's Rejection Fails to Establish *Prima facie* Obviousness of Claim 6**

The reasoning provided in support of the rejection of claim 6 under 35 U.S.C. §103(a) as being obvious by *Sklarew* in view of *Gough* and Microsoft's PowerPoint fails to establish *prima facie* obviousness. Generally, the deficiencies of the rejection are that the rejection attributes certain claimed features to *Sklarew*, *Gough*, and Microsoft's PowerPoint that a detailed reading of the references reveals are not taught therein.

Claim 6 depends indirectly from claim 1. Appellants submit that claim 6 is allowable for the reasons set forth above with regard to claim 1 at least upon its dependency on claim 1. Appellants further submit that dependent claim 6 is separately patentable and offer the following additional argument for the invention of claim 6.

The rejection of claim 6 asserts that Microsoft's PowerPoint teaches the incremental feature as cited therein. Appellant respectfully submits, however, that the rejection's reliance on Microsoft's PowerPoint as allegedly teaching these claim features fails to make up for the deficiencies of the rejection as applied to claim 6 and, further, as applied to claim 1. Thus, the Examiner's rejection fails to establish *prima facie* obviousness of claim 6. Appellants maintain that claim 6 is allowable over the art as cited.

**D. The Examiner's Rejection Fails to Establish *Prima facie* Obviousness of Claim 7**

**1. Argument Summary**

The reasoning provided in support of the rejection of claim 7 under 35 U.S.C. §103(a) as being obvious by *Sklarew* in view of *Borgstrom* fails to establish *prima facie* obviousness. Generally, the deficiencies of the rejection are that the rejection attributes certain claimed features to the references that a detailed reading of the references reveals are not taught therein; when the nature and purpose of the device of *Sklarew* is recognized, it is evident that there is no suggestion or motivation in either of the references cited in support of the rejection or in knowledge generally available to those skilled in the art to modify *Sklarew* in a manner asserted by the rejection; and by asserting that certain modifications to the device of *Sklarew* would have been obvious without a proper suggestion or motivation in the applied references or elsewhere to make the asserted modifications, the rejection appears to rely on impermissible hindsight reasoning.

**2. Legal Requirements of *Prima facie* Obviousness**

To establish *prima facie* obviousness, all claim limitations must be taught or suggested by the prior art and the asserted modification or combination of the prior art must be supported by some teaching, suggestion, or motivation in the applied references or in knowledge generally available to one skilled in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The prior art must suggest the desirability of the modification in order to establish a *prima facie* case of obviousness. *In re Brouwer*, 77 F.3d 422, 425, 37 USPQ2d 1663, 1666 (Fed. Cir. 1995). It can also be said that the prior art must collectively suggest or point to the claimed invention to support a finding of obviousness. *In re Hedges*, 783 F.2d 1038, 1041, 228 USPQ 685, 687 (Fed. Cir. 1986); *In re Ehrreich*, 590 F.2d 902, 908-909, 200 USPQ 504, 510 (C.C.P.A. 1979).

The teaching or suggestion to make the asserted combination or modification of the primary reference must be found in the prior art and cannot be gleaned from applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In other words, the use of hindsight to reconstruct the claimed invention is impermissible. *Uniroyal Inc. v. Rudlan-Wiley Corp.*, 5 USPQ 1434 (Fed. Cir. 1983).

Finally, when considering the differences between the primary reference and the claimed invention, the question for assessing obviousness is not whether the differences themselves would be been obvious, but instead whether the claimed invention as a whole would have been obvious. *Stratoflex Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983).

**3. The Cited References Fail to Teach or Suggest all of the Elements of Dependent Claim 7**

Claim 7 depends directly from claim 1. Appellants submit that claim 7 is allowable for the reasons set forth above with regard to claim 1 at least upon its dependency on claim 1. Appellants further submit that dependent claim 7 is separately patentable and offer the following additional argument for the invention of claim 7.

The invention of claim 7 is directed to a filing apparatus according to claim 1, which comprises an address field provided with a position-coding pattern, and an order icon, a marking of the order icon by said drawing device being adapted to initiate an operation in the computer system which operation performs an order of another filing appliance to be delivered to the address entered in the address field.

In maintaining his rejection of claim 7, the Examiner asserts in the Final Official Action mailed January 13, 2005, in pages 5-6 as follows:

As per claim 7, *Sklarew* teachings a filing appliance which comprises an address field provided with a position-coding pattern (Fig. 2). However, *Sklarew* does not disclose an order icon, a marking of the order icon being adapted to initiate an operation in the computer system, which operation performs an order of another filing appliance to

be delivered to the address entered in the address field. *Borgstrom* teaches a system for initiating functions using a drawing device wherein an order of additional sheets can be initiated through an icon (col. 7, lines 51-57). It would have been obvious to one of ordinary skill in the art at the time of the invention to include *Borgstrom*'s teaching with *Sklarew*'s apparatus in order to provide a quick and easy method of ordering appliances.

Appellants disagree that *Borgstrom* teaches an order icon, a marking of the order icon by said drawing device being adapted to initiate an operation in the computer system which operation performs an order of another filing appliance to be delivered to the address entered in the address field.

The disclosure of *Borgstrom* is directed to a predefined electronic pen application in specially formatted paper. A method and system is disclosed for initiating functions on an electronic device and includes using a sensor to detect a pattern on a specially formatted surface. Using the detected pattern, a corresponding predefined pattern stored in memory is identified and performed by a processor/controller (Abstract). Specifically, at col. 7, lines 50-57, *Borgstrom* discloses as follows:

Preferably, the electronic pen 10 or a server monitors paper usage and prompts the user to buy new paper (e.g., by sending a message to the user on a phone or laptop with information from the paper manufacturer). In addition, an icon in the notebook might automatically initiate web access to a server where additional paper can be ordered or purchased.

In contrast, the present invention set forth in claim 7 recites, *inter alia*, an order icon, a marking of the order icon by said drawing device being adapted to initiate an operation in the computer system which operation performs an order of another filing appliance to be delivered to the address entered in the address field. *Borgstrom* discloses that an icon may be provided to direct a user to a website where an order may be placed. However, there is no teaching or suggestion in *Borgstrom* that is directed to an order icon, a marking of the order icon by said drawing device being adapted to initiate an operation in the computer system which operation performs an order of another filing appliance to be delivered to the address entered in the address field, as recited in claim 7. As neither of references, either alone or in combination, assuming

these references are combinable, which Appellants do not admit, teach or suggest all of the claim elements, Appellants maintain that the Examiner has failed to establish *prima facie* obviousness. It is respectfully submitted that for at least this reason, claim 7 is allowable over the references as cited.

#### **4. There is No Motivation to Combine the Teachings of the Cited References**

In providing the required motivation for combining the *Sklarew* and *Borgstrom* references, the Examiner asserts it would have been obvious to one of ordinary skill in the art to modify the device in *Sklarew* by the teachings of *Borgstrom* in order to provide a quick and easy method of ordering appliances. Appellant maintains that this statement is insufficient in order to provide proper motivation under 35 U.S.C. § 103.

As noted above, *Borgstrom* discloses an electronic pen or server monitors paper usage and prompts the user to buy new paper. An icon in the notebook might automatically initiate web access to a server where additional paper can be ordered or purchased. At col. 7, lines 22-38, *Borgstrom* discloses:

Referring now to FIG. 14, there is illustrated an example of a preprinted paper 260 for triggering selected functions in accordance with another embodiment of the present invention. By writing in a written input field 270 and then touching the electronic pen 10 to an address field 268 (or by writing in a field dedicated to address inputs), an address recognition function might be triggered. Similarly, written input can be inserted in an email or a reply email by touching the pen 10 to an email field 264 or a reply field 266, respectively. The preprinted paper might also include an icon field 262 that contains one or more icons that, when touched or clicked by the electronic pen 10, trigger a connection with a particular web address. Such icons can be sold, for example, to advertisers by the producer of the preprinted paper 260 or the owner of a server that is associated with the portion of the address pattern included on the paper.

In a separate field of endeavor, *Sklarew* discloses a handwritten keyboardless entry computer system that allows a user to input data using a stylus wherein the input screen

generates positional information when contacted by the stylus. *Sklarew* discloses that forms may be stored in the computer memory.

The Examiner purports to combine the coded icon on paper of *Borgstrom* with the computer of *Sklarew* in order to render claim 7 obvious. However, it is respectfully submitted that one of ordinary skill in the art would not be motivated to modify a device which detects the position of the pen from a sensor arrangement under a display surface with an arrangement that reads codes imprinted on a surface.

Further, as there is no paper usage in *Sklarew*, one skilled in the art would not be motivated to include an icon in *Sklarew* that monitors paper usage and provide functionality to order more paper.

For all of the reasons noted above, Appellants maintain there is no motivation to combine the references as asserted by the Examiner. As the Examiner has failed to provide proper motivation for the combination of the teachings of the cited references, Appellant maintains that the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103.

#### **5. The Rejection of Dependent Claim 7 Relies On Impermissible Hindsight Reasoning**

By asserting that it would have been obvious to modify *Sklarew* to include the features of *Borgstrom*, with no suggestion or motivation in the applied references, or elsewhere to do so, the rejection appears to rely on impermissible hindsight reasoning. As such, Appellant maintains that dependent claim 7 is patentable over *Sklarew* in view of *Borgstrom*.

#### **E. The Examiner's Rejection Fails to Establish *Prima facie* Obviousness of Claim 9**

Claim 9 depends directly from claim 1. Appellants submit that claim 9 is allowable for the reasons set forth above with regard to claim 1 at least upon its dependency on claim 1.



Appellants further submit that dependent claim 9 is separately patentable and offer the following additional argument for the invention of claim 9.

The rejection of claim 9 asserts that *Lamming* teaches the incremental feature as cited therein. Appellant respectfully submits, however, that the rejection's reliance on *Lamming* as allegedly teaching these claim features fails to make up for the deficiencies of the rejection as applied to claim 9 and, further, as applied to claim 1. Thus, the Examiner's rejection fails to establish *prima facie* obviousness of claim 9. Appellants maintain that claim 9 is allowable over the art as cited.

**F. The Examiner's Rejection Fails to Establish *Prima facie* Obviousness of Claims 11, 14-15, 17, and 24**

**a. The Cited References Fail to Render Claims 11, 14, and 24 Obvious**

The reasoning provided in support of the rejection of claims 11, 14, and 24 under 35 U.S.C. §103(a) as being obvious by *Sklarew* in view of *Lamming* fails to establish *prima facie* obviousness. Generally, the deficiencies of the rejection are that the rejection attributes certain claimed features to *Sklarew* and *Lamming* that a detailed reading of the references reveals are not taught therein.

Claims 11, 14, and 24 depend directly from claims 1, 12, and 22 respectively. Appellants submit that claims 11, 14, and 24 are allowable for the reasons set forth above with regard to claims 1, 12, and 22, respectively, at least upon their dependency on claims 1, 12, and 22, respectively. Appellants further submit that dependent claims 11, 14, and 24 are separately patentable and offers the following additional argument for the invention of claims 11, 14, and 24.

Claim 11 is directed to a filing appliance according to claim 1, further comprising an archiving icon, detection of the archiving icon by the drawing device being adapted to initiate an operation wherein position information corresponding to strokes of the drawing device, which

strokes are generated after a reference time point, is transmitted from the drawing device to the computer system.

In maintaining his rejection of claim 11, the Examiner asserts in the Final Official Action mailed January 13, 2005, on pages 6-7 as follows:

Claims 11 and 24 are similar in scope to claim 14 and are therefore rejected under similar rationale.

As per claims 14-15 and 17, *Sklarew* teaches a filing appliance comprising an archiving icon (Fig. 10, *SAVE*), a detection of the archiving icon by the drawing device initiates an operation wherein position information corresponding to strokes of the drawing device is transmitted from the drawing device to the computer system (col. 5, lines 61-64; abstract, lines 6-8). However, *Sklarew* does not explicitly disclose the position information to be of strokes generated after a reference time point which is to be set to the current time in connection with the transmission of the position information and stored in the computer system. *Lamming* teaches a system of time-stamping strokes entered by a drawing device which are then stored in the computer system (col. 2, lines 8-20). It would have been obvious to one of ordinary skill in the art at the time of the invention to include *Lamming*'s teaching with *Sklarew*'s system in order to provide a fast and efficient method of locating previously stored information.

Appellants disagree *Sklarew* and *Lamming* disclose wherein position information corresponding to strokes of the drawing device, which strokes are generated after a reference time point, is transmitted from the drawing device to the computer system.

As noted above, *Sklarew* merely teaches the stylus detecting voltage at the touched location where the voltage is conducted from the pen through a wire to an analog to digital converter for used in computations by the computer. (col. 6, lines 43-66). As such, Appellants maintain that *Sklarew* fails to teach or suggest position information corresponding to strokes of the drawing device being transmitted from the drawing device to the computer system as claimed. Further, there is no teaching or suggestion in *Sklarew* that is directed to detection of the archiving icon by the drawing device. The stylus of *Sklarew* performs no such detection.

The disclosure of *Lamming* is directed to a real time user indexing of random access time stamp correlated databases. *Lamming* discloses a note-taking system based on a notepad computer with an integrated audio/video recorder. A document may be created or retrieved. As the user types on the keyboard or writes with the stylus, each character or stroke that is input by the user is invisibly time-stamped by the computer. To play a section of recording back, the user selects part of the note and invokes a playback selection command. The computer examines the time-stamp and winds the record to the corresponding place in the audio/video recording where it starts playing (Abstract). However, there is no teaching or suggestion in *Lamming* that is directed to wherein position information corresponding to strokes of the drawing device, which strokes are generated after a reference time point, is transmitted from the drawing device to the computer system. Further, there is no teaching or suggestion in *Lamming* that is directed to the detection of an archiving icon by the drawing device.

As neither of the references, either alone or in combination, teach or suggest all of the claim elements, assuming these references are combinable, which Appellants do not admit, Appellants maintain that the Examiner has failed to establish *prima facie* obviousness and thus, claim 11 is patentable over the references as cited.

As claims 14 and 24 includes elements similar to those set forth above with regard to claim 11, Appellants maintain that claims 14 and 24 are allowable over the references as cited for the reasons set forth above with regard to claim 11.

**b. The Cited References Fail to Render Dependent Claims 15 and 17 Obvious**

Claims 15 and 17 depend indirectly directly from claim 12. Appellants submit that claims 15 and 17 are allowable for the reasons set forth above with regard to claim 12 at least upon their dependency on claim 12. Appellants further submit that dependent claims 15 and 17 are separately patentable and offer the following additional argument for the invention of claims 15 and 17.

The rejection of claims 15 and 17 asserts that *Lamming* teaches the incremental feature as cited therein. Appellant respectfully submits, however, that the rejection's reliance on *Lamming* as allegedly teaching these claim features fails to make up for the deficiencies of the rejection as applied to claims 15 and 17 and, further, as applied to claim 12. Thus, the Examiner's rejection fails to establish *prima facie* obviousness of claims 15 and 17. Appellants maintain that claims 15 and 17 are allowable over the art as cited.

**G. The Examiner's Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claim 16**

Claim 16 depends indirectly from claim 12. Appellants submit that claim 16 is allowable for the reasons set forth above with regard to claim 12 at least upon its dependency on claim 12. Appellants further submit that dependent claim 16 is separately patentable and offer the following additional argument for the invention of claim 16.

The rejection of claim 16 asserts that *Morishita* teaches the incremental feature as cited therein. Appellant respectfully submits, however, that the rejection's reliance on *Morishita* as allegedly teaching these claim features fails to make up for the deficiencies of the rejection as applied to claim 16 and, further, as applied to claim 12. Thus, the Examiner's rejection fails to establish *prima facie* obviousness of claim 16. Appellants maintain that claim 16 is allowable over the art as cited.

**H. The Examiner's Rejection Fails to Establish *Prima facie* Obviousness of Independent Claim 18**

The reasoning provided in support of the rejection of claim 18 under 35 U.S.C. §103(a) as being obvious by *Sklarew* in view of *Eichstaedt* fails to establish *prima facie* obviousness. Generally, the deficiencies of the rejection are that the rejection attributes certain claimed features to the references that a detailed reading of the references reveals are not taught therein; when the nature and purpose of the device of *Sklarew* is recognized, it is evident that there is no suggestion or motivation in either of the references cited in support of the rejection or in

knowledge generally available to those skilled in the art to modify *Sklarew* in a manner asserted by the rejection; and by asserting that certain modifications to the device of *Sklarew* would have been obvious without a proper suggestion or motivation in the applied references or elsewhere to make the asserted modifications, the rejection appears to rely on impermissible hindsight reasoning.

**1. The Cited References Fail to Teach or Suggest All of the Elements of Independent Claim 18**

The invention of claim 18 is directed to a method for processing information. The method includes receiving buffered position information from a drawing device, the position information being generated when the drawing device is moved over a position-coding pattern, the position information including information that is generated before and after time point  $t_{act}$ ; inserting position information generated before said time point  $t_{act}$  in a first information object wherein the first information object is related to a first filing appliance; and inserting position information generated after said time point  $t_{act}$  in a second information object, wherein the second information object is related to a second filing appliance.

In maintaining his rejection of claim 18, the Examiner asserts the Final Official Action mailed January 13, 2005, on pages 7-8 as follows:

As per claim 18, *Sklarew* teaches a method for processing information comprising:

receiving buffered position information from a drawing device, the position information being generated when the drawing device is moved over a position-coding pattern (col. 5, lines 61-67), the position information including information that is generated before and after time point  $t$  (*time is continuous therefore inherent for a time to exist in which the position information is generated*);

However, *Sklarew* does not disclose inserting buffered position information generated before said time point  $t$  in a first information object wherein the first information object is related to a first filing appliance; and inserting position information generated after said time point  $t$  in a second information object, wherein the second information object is related to a second filing appliance. *Eichstaedt* teaches a method of

having multiple buffered position information generated before and after a time to be inserted into separate objects (*Eichstaedt*, col. 5, lines 15-20). It would have been obvious to one of ordinary skill in the art at the time of the invention to include *Eichstaedt*'s teaching with *Sklarew*'s method in order to use the drawing device for multiple applications.

Appellants disagree *Sklarew* discloses includes receiving buffered position information from a drawing device, the position information being generated when the drawing device is moved over a position-coding pattern. Appellants further disagree that *Eichstaedt* teaches inserting position information generated before said time point  $t_{act}$  in a first information object wherein the first information object is related to a first filing appliance; and inserting position information generated after said time point  $t_{act}$  in a second information object, wherein the second information object is related to a second filing appliance, as recited in claim 18.

Appellants have noted the teachings of *Sklarew* above. There is no teaching or suggestion in *Sklarew* that is directed to receiving buffered position information from a drawing device, the position information being generated when the drawing device is moved over a position-coding pattern, as the stylus of *Sklarew* merely conducts the voltage directly to the computer. Further, *Sklarew* does not disclose a position-coding pattern. Finally, *Sklarew* does not teach or suggest receiving buffered position information from a drawing device, the position information being generated when the drawing device is moved over a position-coding pattern.

The disclosure of *Eichstaedt* is directed to a cut and paste pen for pervasive computing devices. The stylus of *Eichstaedt* includes a wireless transceiver, a processing controlling the transceiver and a data storage device. Data can be selected on a first computer such as a first personal digital assistant (PDA) and the transmitted via wireless link to the stylus, when the user manipulates a button on the stylus to signal to the operating system of the first PDA that it is ready to receive data. The data is transmitted to the stylus and stored therein. The stylus is aimed at a second PDA and the button is manipulated to cause the stylus to transmit the data to the second PDA via wireless link (Abstract).

Additionally, at col. 5, lines 15-20, *Eichstaedt* discloses if desired, multiple messages can be held in the data storage device 52 of the stylus 44. The user can select which message to transmit by toggling through the various messages as presented on the display 54 and the selecting the message sought to be transmitted by, e.g., double clicking the button 58.

There is no disclosure in *Eichstaedt* that is directed to receiving buffered position information from a drawing device, the position information being generated when the drawing device is moved over a position-coding pattern. Further, there is no teaching or suggestion in *Eichstaedt* that is directed to inserting position information generated before said time point  $t_{act}$  in a first information object wherein the first information object is related to a first filing appliance; and inserting position information generated after said time point  $t_{act}$  in a second information object, wherein the second information object is related to a second filing appliance. There is no disclosure in *Eichstaedt* that is directed to the first information object being related to the first filing appliance and the second information object being related to the second filing appliance.

Appellants maintain that *Eichstaedt* fails to cure the deficiencies of the teachings of Sklarew and, as such, Appellants maintain that the combination of the teachings of the references fails to render claim 18 obvious as they fail to teach or suggest all of the claim elements, assuming these references are combinable, which Appellants do not admit. Thus, Appellants maintain that the Examiner has failed to establish *prima facie* obviousness and thus, claim 18 is allowable over the references as cited.

## 2. There is No Motivation to Combine the Teachings of the References

In support of the Examiner's rejection of claim 18, the Examiner appears to replace the stylus of *Eichstaedt* with the stylus of *Sklarew*. The Examiner admits *Sklarew* does not disclose inserting buffered position information generated before said time point  $t$  in a first information object wherein the first information object is related to a first filing appliance; and inserting position information generated after said time point  $t$  in a second information object, wherein the

second information object is related to a second filing appliance. The Examiner further asserts *Eichstaedt* teaches a method of having multiple buffered position information generated before and after a time to be inserted into separate objects (*Eichstaedt*, col. 5, lines 15-20). The Examiner concludes it would have been obvious to one of ordinary skill in the art at the time of the invention to include *Eichstaedt*'s teaching with *Sklarew*'s method in order to use the drawing device for multiple applications.

Appellants submit that the motivation, to use the drawing device for multiple applications, is insufficient to satisfy the Examiner's burden in establishing motivation. It is well established that if the proposed modification or combination of the prior art would change the principle operation of the prior art invention being modified, the teachings of the reference are not sufficient to render the claims *prima facie* obvious. In re Ratti, 270 F.2d 8120, 123 USPQ 439 (CCPA 1959). The apparatus of *Sklarew* is directed to a computer with a wired stylus that conducts voltage to the computer where the computer determination position based on the voltage. The apparatus of *Eichstaedt* is directed to a wireless stylus that includes a transceiver and a data storage device where data may be transmitted from a first device wirelessly to the stylus and then transmitted to a second device. The Examiner appears to be asserting that the stylus of *Eichstaedt* should be replaced with the stylus of *Sklarew* in order to receive and store position information. However, the *Sklarew* device determines position information at the computer. The purported combination would thus change the principle operation of the prior art being modified and thus, Appellants maintain that the purported combination is improper.

Further, in making such a combination, a substantial modification in the functionality of *Sklarew* necessarily need to be made and, ultimately, would render the apparatus of *Sklarew* inoperative. One of ordinary skill in the art would not be motivated to make such a modification.

For the reasons noted above, Appellants maintain that the Examiner has failed to provide proper motivation in support of his rejection and thus, has failed to establish *prima facie* obviousness. Appellants maintain that claim 18 is allowable over the references as cited.



### 3. Hindsight Reasoning

By asserting that it would have been obvious to modify *Sklarew* to include the features of *Eichstaedt*, with no suggestion or motivation in the applied references, or elsewhere to do so, the rejection appears to rely on impermissible hindsight reasoning. As such, Appellant maintains that dependent claim 18 is patentable over *Sklarew* in view of *Eichstaedt*.

#### I. The Examiner's Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claims 19-20

Claims 19-20 depend either directly or indirectly from claim 18. Appellants submit that claims 19-20 are allowable for the reasons set forth above with regard to claim 18 at least upon their dependency on claim 18. Appellants further submit that dependent claims 19-20 are separately patentable and offer the following additional argument for the invention of claims 19-20.

The rejection of claims 19-20 asserts that *Eichstaedt* teaches the incremental feature as cited therein. Appellant respectfully submits, however, that the rejection's reliance on *Eichstaedt* as allegedly teaching these claim features fails to make up for the deficiencies of the rejection as applied to claims 19-20 and, further, as applied to claim 18. Thus, the Examiner's rejection fails to establish *prima facie* obviousness of claims 19-20. Appellants maintain that claims 19-20 are allowable over the art as cited.

#### J. The Examiner's Rejection Fails to Establish *Prima facie* Obviousness of Independent Claim 25

The invention of claim 25 is directed to a drawing device where the drawing device includes a sensor for sensing position information from a position-coding pattern on a surface; and a memory for storing the sensed positional information, the position information including information that is generated before and after time point  $t_{act}$ , wherein position information sensed before said time point  $t_{act}$  is to be inserted in a first information object wherein the first information object is related to a first filing appliance, and wherein position information

generated after said time point  $t_{act}$  is to be inserted in a second information object, wherein the second information object is related to a second filing appliance.

In maintaining his rejection of claim 25, the Examiner asserts in the Final Official Action mailed January 13, 2005, on page 8 as follows:

Claims 19-20 and 25 are individually similar in scope to claim 18 and are therefore rejected under similar rationale.

Appellants disagree the cited references teach the sensor and the memory as claimed.

**1. The Cited References Fail to Teach or Suggest all of the Elements of Claim 25**

As noted above, the stylus of *SklaREW* merely conducts detected voltage to the computer. There is no teaching or suggestion in *SklaREW* that is directed to a sensor for sensing position information from a position-coding pattern on a surface. The teachings of *Eichstaedt* are equally deficient.

Further, there is no teaching or suggestion in *SklaREW* that is directed to a memory for storing the sensed positional information. *Eichstaedt* is equally deficient as *Eichstaedt* does not teach storing positional information.

Finally, there is not teaching or suggestion in *SklaREW* that is directed to the position information including information that is generated before and after time point  $t_{act}$ , wherein position information sensed before said time point  $t_{act}$  is to be inserted in a first information object wherein the first information object is related to a first filing appliance, and wherein position information generated after said time point  $t_{act}$  is to be inserted in a second information object, wherein the second information object is related to a second filing appliance. *Eichstaedt* is equally deficient as *Eichstaedt* does not teach storing positional information.

Appellants maintain that *Eichstaedt* fails to cure the deficiencies of the teachings of Sklarew and, as such, Appellants maintain that the combination of the teachings of the references fails to render claim 25 obvious as they fail to teach or suggest all of the claim elements, assuming these references are combinable, which Appellants do not admit. Thus, Appellants maintain that the Examiner has failed to establish *prima facie* obviousness and thus, claim 25 is allowable over the references as cited.

## **2. There is No Motivation to Combine the Teachings of the References**

Appellants refer to Appellants' arguments set forth above with regard to claim 18 and maintain that there is no motivation to combine the teachings of the references.

For the reasons noted above, Appellants maintain that the Examiner has failed to provide proper motivation in support of his rejection and thus, has failed to establish *prima facie* obviousness. Appellants maintain that claim 25 is allowable over the references as cited.

## **3. Hindsight Reasoning**

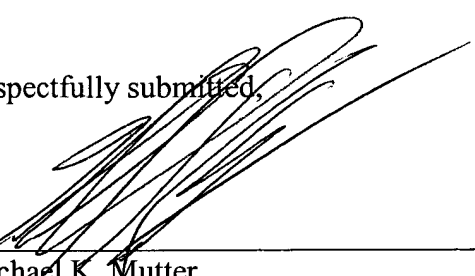
By asserting that it would have been obvious to modify *Sklarew* to include the features of *Eichstaedt*, with no suggestion or motivation in the applied references, or elsewhere to do so, the rejection appears to rely on impermissible hindsight reasoning. As such, Appellant maintains that dependent claim 25 is patentable over *Sklarew* in view of *Eichstaedt*.

VIII. **CONCLUSION**

The withdrawal of the outstanding rejections and the allowance of claims 1-25 is earnestly solicited.

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Respectfully submitted,



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**APPENDIX A**

**Claims Involved in the Appeal of Application Serial No. 09/986,378**

1. (Previously Presented) A filing appliance comprising means for holding a plurality of sheets, wherein at least one input field is provided with a position-coding pattern and is adapted to be filled in by a drawing device which records, using said position-coding pattern, positions in the input field in order to digitally record information entered in the input field, and an initiation icon is provided, wherein a detection of the initiation icon by the drawing device is adapted to initiate an operation in a computer system communicating with the drawing device, in which operation an information object is created, which is identifiable at least by means of information entered in the input field.

2. (Original) A filing appliance according to claim 1, wherein said input field is adapted to be filled in at least with text.

3. (Original) A filing appliance according to claim 1 or 2, wherein said input field is adapted to be filled in at least with an illustration.

4. (Previously Presented) A filing appliance according to claim 1, wherein sheets in at least a subset of said plurality of sheets are provided with a position-coding pattern so that information filled in on a sheet in the subset by said drawing device is recordable as a digital graphical input, the filing appliance comprising a number of appearance icons, a marketing of an appearance icon by means of said drawing device being adapted to give the digital graphical input a visual property.

5. (Original) A filing appliance according to claim 4, wherein said visual property relates at least to stroke weight.

6. (Original) A filing appliance according to claim 4 or 5, wherein said visual property relates at least to line color.

7. (Previously Presented) A filing apparatus according to claim 1, which comprises an address field provided with a position-coding pattern, and an order icon, a marking of the order icon by said drawing device being adapted to initiate an operation in the computer system which operation performs an order of another filing appliance to be delivered to the address entered in the address field.

8. (Previously Presented) A filing appliance according to claim 1, wherein at least two sheets in a subset of said plurality of sheets are provided with a position-coding pattern, so that information filled in on a sheet in the subset can be recorded by said drawing device as digital graphical inputs, and a send icon provided with a position-coding pattern, a marking of the send icon by means of the drawing device initiating an operation in the computer system, in which operation graphical inputs entered on the sheet are transferred to the computer system and optionally on to an external computer system.

9. (Previously Presented) A filing appliance according to claim 1, wherein said information object comprises a table in a database.

10. (Previously Presented) A filing appliance according to claim 1, wherein said information object comprises a file.

11. (Previously Presented) A filing appliance according to claim 1, further comprising an archiving icon, detection of the archiving icon by the drawing device being adapted to initiate an operation wherein position information corresponding to strokes of the drawing device, which strokes are generated after a reference time point, is transmitted from the drawing device to the computer system.

12. (Previously Presented) A system for information management, comprising a filing appliance, a drawing device and a computer system, the filing appliance comprising: means for holding a plurality of sheets; at least one input field which is provided with a position-coding pattern and adapted to be filled in by the drawing device which is adapted to record, using said position-coding pattern, positions in the input field in order to digitally record information entered in the input field; and an initiation icon wherein a detection of the initiation icon by the drawing device initiates an operation in said computer system, which is adapted to communicate with the drawing device, where an information object is created, which is identifiable at least by said information entered in the input field.

13. (Original) A system according to claim 12, wherein the computer system is integrated with the drawing device.

14. (Previously Presented) A system according to claim 12, wherein the filing appliance comprises an archiving icon, which is arranged wherein a detection of the archiving icon by the drawing device initiates an operation wherein position information corresponding to strokes of the drawing device, which strokes are generated after a reference time point, is transmitted from the drawing device to the computer system.

15. (Original) A system according to claim 14, wherein the reference time point is set to the current time in connection with the transmission of the position information.

16. (Original) A system according to claim 14 or 15, wherein the reference time point is stored in the drawing device.

17. (Original) A system according to claim 14 or 15, wherein the reference time point is stored in the computer system.

18. (Previously Presented) A method for processing information comprising:  
receiving buffered position information from a drawing device, the position information being generated when the drawing device is moved over a position-coding pattern, the position information including information that is generated before and after time point  $t_{act}$ ;  
inserting position information generated before said time point  $t_{act}$  in a first information object wherein the first information object is related to a first filing appliance;  
inserting position information generated after said time point  $t_{act}$  in a second information object, wherein the second information object is related to a second filing appliance.

19. (Original) A computer program comprising instructions for performing the method as claimed in claim 18.

20. (Original) A memory medium comprising a computer program as claimed in claim 19.

21. (Previously Presented) The filing appliance of claim 1, wherein the initiation icon is provided with a position-coding pattern.

22. (Previously Presented) A filing device comprising:  
a holder for holding a plurality of tangible sheets, including at least one input field which is provided with a position-coding pattern and is adapted to be filled in by a drawing device which records, using the position-coding pattern, positions in the input field to digitally record information entered in the input field, wherein the filing device further includes an initiation icon, wherein the drawing device is adapted to detect the initiation icon and, upon detection of the initiation icon, initiate an operation in a computer system communicating with the drawing device, in which operation an information object is created, which is identifiable at least by the information entered in the input field.



23. (Previously Presented) The filing device of claim 22, wherein the information object electronically represents the filing device.

24. (Previously Presented) A filing device according to claim 22, wherein the filing device comprises an archiving icon, which is arranged wherein a detection of the archiving icon by the drawing device initiates an operation wherein position information corresponding to strokes of the drawing device, which strokes are generated after a reference time point, is transmitted from the drawing device to the computer system.

25. (Previously Presented) A drawing device comprising:  
a sensor for sensing position information from a position-coding pattern on a surface; and  
a memory for storing the sensed positional information, the position information including information that is generated before and after time point  $t_{act}$ ,  
wherein position information sensed before said time point  $t_{act}$  is to be inserted in a first information object wherein the first information object is related to a first filing appliance, and  
wherein position information generated after said time point  $t_{act}$  is to be inserted in a second information object, wherein the second information object is related to a second filing appliance.